



## UNITED STATES DEPARTMENT OF COMMERCE

## Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/460,223 12/13/99 MIYAGAWA

N JEL-28567RE-

□ WM01/0108  
JAMES E LEDBETTER ESQ  
STEVENS DAVIS MILLER & MOSHER LLP  
SUITE 850  
PO BOX 34387  
WASHINGTON DC 20043-4387

EXAMINER

HTNDT, N	ART UNIT	PAPER NUMBER
----------	----------	--------------

2651

DATE MAILED:

01/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. <b>09/460,223</b>	Applicant <b>Miyagawa et al</b>
Examiner <b>NABIL HINDI</b>	Group Art Unit <b>2651</b>

Responsive to communication(s) filed on Aug 25, 2000.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 26 and 28-35 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 26 and 28-35 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2651

In response to applicant's supplemental preliminary amendment dated Aug. 25, 2000. The following action is taken:

There are five related reissue cases. The first paragraph must be amended to mention all of the related cases.

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP. § 1414.

The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 (a)(2)and MPEP. § 1414.

The reissue oath/declaration filed with this application is defective (see 37CFR 1.175 and MPEP. § 1414) because of the following:

1. The declaration does not adequately identify at least one error as per 37CFR 1.175 (a)(1).
2. The declaration does not state that all errors correction in this application arose without any deceptive intention on the part of applicant.

Claims 26, and 28-35 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

Art Unit: 2651

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Claims 28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 line 24, the limitation “said photo detecting means” lacks proper antecedent basis.

**Applicant is hereby reminded that the new supplemental declaration should cover all the errors corrected from the filing of the reissue applicant to the amendment filed Aug. 25, 2000.**

Any inquiry concerning this communication should be directed to NABIL.HINDI  
at telephone number (703) 308.1555

**NABIL HANDE**  
**PRIMARY EXAMINER**  
**GROUP 2500**